Chapter 4

To Form a More Perfect Union

§ 1. A Brief Introduction to Chapters 4 –9

This chapter and the five that follow it take up, one by one, each of the six specific objectives of government stated in the Preamble of the Constitution. These six objectives are rightfully and justly regarded as general statements of purpose applicable to the function of government at all levels from the lowliest to the highest. This is implied by the placement of these objectives in the Preamble rather than in any of the Articles that follow. Let us review the specific wording of the Preamble:

> We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

There are three key points to note about this wording. One point is, of course, the statement of the six objectives themselves. But the first and most fundamental point is contained in the first seven words of the Preamble. It is not the general government, nor any state government, nor any assembly of state governments, nor any other agency of government whatsoever that orders or defines the six objectives. It is the people themselves, in other words the Sovereign, that sets these objectives, and nothing found anywhere else in the Constitution interprets any of these objectives as being limited in scope to the general government alone. The six objectives can only be interpreted as expressions of the Sovereign will of the American body politic. The third and last point is contained in the final dozen words of the Preamble. The act of ordaining and establishing the Constitution is *one specific act* taken pursuant to the accomplishment of the six objectives. There is no expressed or implied limitation to the applicability of the six general objectives with regard to any agency of government. It follows, therefore, that the six general objectives are the supreme and fundamental objectives for *all* agencies of government regardless of the specific functions of these agencies or institutions.

Although the six objectives apply to every agency of government, the responsibility and duty for guaranteeing and enforcing the accomplishment of these objectives is vested in the general government by Article Six:

> This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

Time and again throughout the history of the nation, disputes have recurred between the individual state governments and the general government regarding the issue of states' rights. Two things need to

be noted in this regard. The first is this: neither the state governments, nor the general government, nor any other government at any level, nor any established agency or bureau of government *have any rights whatsoever*. The institutions of government have appointed *powers* and *jurisdictions*, not rights. Only people have rights, and even here the term "rights" means nothing else than civil liberties and *unalienated* natural rights. That there are *no* states' rights is implicit in the wording of the Tenth Amendment,

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

Who or what limits those powers of the state governments not prohibited by the Constitution? In the Republic, the answer to this question is very simple and direct: the people themselves as the Sovereign. No institution of government *at any level* in the Republic is granted the power to *rule*. All are bound by and beholden to the will of the Sovereign, and the six general objectives of government are the principal and guiding objectives for determining every power of every agency of government. For example, when some states attempted in the early 1960s to defy federal law banning segregation in every form, the argument that they were exercising states' rights was *both* unlawful and unjust, and their actions were made unjust by their contradiction to the general objectives for both establishing justice and for securing the blessings of liberty. The actions of the general government, by contrast, were both legal and just – just from their conformity to the general objectives and legal according to Article Six of the Constitution.

The second thing requiring note is a point that goes beyond the specific topic of so-called state's rights and even beyond that of the Constitution itself. The six general objectives are foundational principles *superior to* the Constitution itself. The Constitution is the supreme law of the land, but the six objectives are superior to it by virtue of the fact that they themselves *are not laws*. They can rightly be called laws about laws. A technical term for them might be fashioned: they are ***meta-laws***. As such, they are the general principles and the ultimate standard gauge for the judgment of every law, executive order, or regulation issued or put forth by any institute or agent of government at any level.

A fiction that has taken root over time in the United States is the fiction that the justice system is about the law, not about justice. The practice of the justice system has been, for quite some time now, the practice of merely a legal system. Defense of this attitude sometimes resorts to the persuasive rhetoric of calling it "the justice system," but this phrase has become merely a codeword for "legal system." It is true that the mechanisms and procedures of this system do constitute the institution of a legal system and there is nothing wrong with this limited way of viewing the mechanical function of the justice system. But *judgments* and the *conducts* of the agents of this system must always and without exception be the judgments and conducts of agents of a *justice* system. Justice and legality

have never been synonyms for one another. If they were, there could never be an unjust law and, of course, there have been unjust laws passed many times in our history.

That which is congruent and in conformity with the six fundamental objectives is *just*; that which is contrary to any one or more of the six fundamental objectives is *unjust*. This simple principle is a standard gauge against which every act of every agent of government in every capacity of government is to be measured. This is why a thorough understanding of these objectives is of the most fundamental importance. Unfortunately, the explanation of the meanings of these objectives is not codified by any official document. Some considerable explanation is offered in the eighty-three essays that make up *The Federalist*, and various other essays since its publication have offered additional interpretations and opinions on this topic. But none of these have been regarded as *official* documentation of the just powers of governance. Nor does any agent of government at any level receive mandatory training or education on the role and meaning of our six fundamental objectives of government.

Both of these are paradoxical indeed, when one pauses to reflect on this curious state of affairs. A reasonable person would be inclined to think that clear and official expression of the general will of the Sovereign is not only necessary but of ultimate import for the general health and well-being of republican governance. Even more puzzling is the absence of any systematic civics education covering this most-important character of republican government; it is no longer generally provided to the citizenry of our country at any point in their lives as part of any system of universal public education. There is a foreseeable and inevitable consequence of this omission, and it is simply this: It leads to the decay and eventual total loss of liberty and justice, the destruction of the Sovereign power, ever-mounting violations of the Social Contract, and the growing institution of despotism.

The purpose of this chapter, and the five that follow, is to set out in clear terms the significance and importance of the principles of our general objectives, and to point out some ways in which current deficiencies, defects, and abuses of government might be corrected. We will find that the objectives overlap each other somewhat. In some cases, therefore, the principles these objectives embody will have to be set out gradually over the course of these six chapters. It seems that a rational and optimal place to begin this treatment is with the first stated objective: To form a more perfect union. To that we shall now turn our attention.

§ 2. The Idea of Union in the Eighteenth and Early Nineteenth Centuries

Is there a distinction to be made between the idea of Union and the Idea of the Republic? If so, what is it? Webster's 1962 unabridged dictionary lists twelve definitions of the word "union." Six of these have no bearing on the context of our topic at hand, being technical usages of the word in, for example, crafts, trades, or medicine. The remaining six have some contact with the context of our

discussion:

> **union** [ME.; Late OFr.; L. *unio*, oneness, from *unus*, one.]
>
> 1. a uniting or being united; combination; fusion.
> 2. an agreeing or leaguing together for mutual benefit.
> 3. the unity or solidarity produced by this.
> 4. that which is united or made into one; something formed by a combination of united parts; a coalition; specifically, a confederacy of two or more nations, states, political groups, etc. for some specific purpose.
> 5. (a) in England, two or more parishes consolidated into one for joint administration of relief for the poor; (b) a workhouse kept up by such a union; (c) two or more parishes or contiguous benefices consolidated for ecclesiastical purposes.
> 6. a labor union; a trade union.

There is no doubt that the Founding Fathers meant definition (4) when they used the word "union" in the Constitution and *The Federalist*. Doubtless, too, is that they thought of "union" more or less strictly in the context of "a confederacy of two or more states"; they were, after all seeking to redress the inadequacies of the then-in-force Articles of Confederation. Hamilton used Montesquieu's term, "confederate republic," in *The Federalist*, no. 9, and quoted him extensively. Montesquieu had written,

> If a republic be small, it is destroyed by a foreign force; if it be large, it is ruined by an internal imperfection.
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> To this twofold inconvenience democracies and aristocracies are equally liable, whether they be good or bad. The evil is in the very thing itself, and no form can redress it.
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> It is, therefore, very probable that mankind would have been, at length, obliged to live constantly under the government of a single person, had they not contrived a kind of constitution that has all the internal advantages of a republican, together with the external force of a monarchical, government. I mean a confederate republic.
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> This form of government is a convention by which several petty states agree to become members of a larger one, which they intend to establish. It is a kind of assemblage of societies, that constitute a new one, capable of increasing by means of further associations, till they arrive at such a degree of power as to be able to provide for the security of the whole body.

Montesquieu had also written, "a confederate Government ought to be composed of States of the same Nature, especially of the republican Kind." The original Articles of Confederation adopted by the new United States had this in mind, and with quite sound reason considering they were at the time in a state of war with Great Britain, then the most powerful nation on earth. The new Constitution did not aim to abolish this idea of a confederate republic, but rather to improve it.

Political science at that time focused its attentions to government more or less strictly within this sort of context. *The Federalist* (nos. 1-14) discusses and stresses the importance of a strong union in terms of the safety and prosperity it provides. The Founding Fathers also took Montesquieu's comment regarding "States of the same Nature" quite seriously and within what we would today call a rather

ethnocentric presupposition. In *The Federalist*, no. 2, John Jay wrote,

> It has often given me pleasure to observe, that independent America was not composed of detached and distant territories, but that one connected, fertile, wide spreading country, was the portion of our western sons of liberty. . . With equal pleasure I have as often taken notice, that Providence has been pleased to give this one connected country to one united people; a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence.

It could not be more clear from this that Jay did not have either people of African ancestry, the Native Americans, or even the Patriots' Dutch and German descendents of non-English-speaking Europe in mind with these words. Later a metaphor, "America is the great melting pot," would be taken by some to mean the still-living attitude of this ethnocentrism. Even today we are not entirely untied from this attitude and there are many who still mistake the melting pot metaphor to imply that assimilation of immigrants means the homogenization of *immigrants* rather than the homogeneity of *Americans*.

Assimilation usually requires accommodation to succeed. If we stick with the melting pot metaphor, when one adds a new substance to the melting pot mix, the resultant mix is never the same as it was before this new substance was added. It is not difficult to appreciate the sociology at work in America's revolutionary-era majority population, but if it was expressly the intent that our republic should be homogeneously British, if not English, immigration would have been banned outright to all except those who came from Britain and the British-descended people of its Commonwealth. One might well wonder how the Dutch, German, and free African American citizens of the American confederacy felt reading Jay's words. If they felt some resentment, that would not be a marvel.

This largely unconscious and systematic prejudice among the majority population was and is in contradiction to the words of the Declaration with its categorical statement "all men are created equal." In time this contradiction and the hypocrisy it fosters would lead to the Civil War, the formation of the Ku Klux Klan during the Reformation, and, much later, the civil rights movement (which also had its elements of violence and bloodshed). It would be pointless to speculate whether any of these events would have come to pass, or would have needed to happen at all, if the framers of the state and general government constitutions had better and more carefully considered a wider interpretation of Union as presented in this treatise. The narrower interpretation, and the systematic ethnocentricity at work in promoting it, are historical events; what happened has happened, and it is only the future, not the past, that lies within our collective power to influence. Recrimination looks only backwards in time; practical resolution can only be forward looking, and no one alive today is culpable for injustices that took place prior to his own lifetime. One is only culpable for injustices he perpetrates or perpetuates.

Among what we commonly call the social sciences, in the Revolutionary and immediate post-

Revolutionary eras, political science and history were the most developed, economics was in its infancy, psychology and sociology had not yet been born. Political science and history walked arm in arm – as they still do, although the marriage is strained and no longer as healthy as it once was – and America's post-colonial leaders were keen students as well as practitioners of political science. Indeed, with Hamilton we can find more than a trace of smugness about how well-perfected he thought political science was at the time. In *The Federalist*, no. 9, he wrote,

> The science of politics, however, like most other sciences, has received great improvement. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges, holding their offices during good behavior; the representation of the people in the legislature, by deputies of their own election; these are either wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellence of republican government may be retained, and its imperfections lessened or avoided. To this catalogue of circumstances, that tend to the amelioration of popular systems of civil government, I shall venture, however novel it may appear to some, to add one more, on a principle which has been made the foundation of an objection to the new constitution; I mean the ENLARGEMENT of the ORBIT within which such systems are to revolve, either in respect to the dimensions of a single state, or to the consolidation of several smaller states into one great confederacy.

By this phrase, "enlargement of the orbit," Hamilton meant a confederate republic had the stability necessary for popular government to succeed on a scale larger than that of small city-states, which had been one objection raised against the idea of establishing the United States as a republic.

If we *do not accept* the present day premise that the topic and scope of political science is limited to "the study of politics, the process of gaining, maintaining, and exercising governmental power in the United States, in other countries, and internationally" (to quote one academic description of political science), the reasoning behind the form given to government in the United States follows from a process quite logical in character and sound in judgment. In contrast, the modern scope and limitation of political science is quite inadequate and uncivic, as it will now be endeavored to be shown.

§ 3. The Idea of Union in the Context of the Social Contract

It takes only a very small change from the dictionary definition of "union" to bring the idea of Union into an understanding that grounds it firmly in the soil of the Social Contract: **a union is a confederacy of two or more political communities for some specific purpose**. When once we have: (1) specified that this purpose is none other than to realize the purpose of the Social Contract; and (2) recognized that the political community is comprised of a great number of sub-communities of various different kinds *that each constitute a real political group*, we have our fundamental definition of a ***political Union***. Our first objective, to form a more perfect union, refers to perfecting our political Union in accord with the general will of the Sovereign.

The objective of forming a more perfect union is in fact the objective most broadly crucial of all in terms of the *practice* of representative government. It permeates every possibility for success in accomplishing all the rest. It is the single objective having the most central and direct bearing on the form of government itself. And it is an objective in need of most urgent attention. Why this is so is the key topic of discussion in the remainder of this section.

Montesquieu, no less than Hamilton and others, regarded his confederation of republics strictly in terms of the then traditional view of political science, which presumed the only political groups involved are states in the usual sense of that word. His argument for the idea of a confederation of republics, which Hamilton quoted word for word in *The Federalist*, was:

> A republic of this kind, able to withstand an external force, may support itself without any internal corruption; the form of this society prevents all manner of inconveniences.
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> If a single member should attempt to usurp the supreme power, he could not be supposed to have an equal authority and credit in all the confederate states. Were he to have too great an influence over one, this would alarm the rest; were he to subdue a part, that which would still remain free might oppose him with forces independent of those which he had usurped, and over-power him before he could be settled in his usurpation.
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> Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one party, they are reformed by those that remain sound. The state may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.
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> As this government is composed of petty republics, it enjoys the internal happiness of each; and with regard to its external situation, by means of the association, it possesses all the advantages of large monarchies.

Because this argument was strictly within the context of states, and did not consider or even recognize that political sub-communities of other types of interests exist, Montesquieu went on to conclude that "a confederate Government ought to be composed of States of the same Nature." What he – and others – failed to adequately appreciate is that sub-communities, not themselves comprising sovereign States, have rational yet "non-political" motivations and interests to involve themselves with government – particularly in its legislative process. This has a direct two-fold bearing on the objective of forming a more perfect union in regard not only to improving the state of perfection of the Union but, even more importantly, protecting it from the corruption of factions.

§ 3.1 The Source of Union's Vulnerability to National Political Parties

Every sub-community within the overall political community is, by practical definition, a faction. Madison, chiefly of all, did recognize the danger of factions and wrote about this at length in *The Federalist*, no. 10. There is no doubt that Madison believed the Constitution adequately dealt with this danger. There is also no doubt that he deeply appreciated the keenest driving forces motivating factions. Reading his words, one cannot help but feel puzzled at first glance why or how the Framers

did not fully appreciate the nature of the beast:

> The latent causes of faction are thus sown into the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders, ambitiously contending for pre-eminence and power; or to persons of other descriptions, whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good. So strong is this propensity of mankind, to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions, and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of government.

Madison quite correctly concluded that the best way to lessen the danger of faction was to set things up so that factions spent themselves and their energies fighting each other, leaving them neither time nor strength to usurp rulership. He assumed (and for his time and place this was not an egregious shortsightedness) that faction would multiply the number of political parties. The battle of the factions would take place in Congress, with coalitions constantly forming and re-forming to prevent rulership by any one faction. The analogy to Montesquieu's idea is so obvious as to need no elaboration.

Overlooked, however, in the cultural myopia of the young United States, were two factors that proved to be quite immune to Madison's proposed cure. One was the formation of *national* political parties whose sole real discriminating interest is *power*. The other was the creation of that Machiavellian tactic we today call *lobbying*.

Even with the benefit of two centuries of hindsight, it remains something of a puzzle as to why the possibility of national political parties was overlooked. It is true enough that colonial America, as well as America under the Articles of Confederation, had never fully experienced the phenomenon of national political parties as we later came to know them. During the Revolution the country did see the splintering of its people into two great political factions, the Patriots and the Tories. However, the end of the Revolutionary War also quite thoroughly settled this division by that ultimate argument, naked force. When the Constitutional Convention was in progress, there were no national parties, although political parties – generally weak and divided – did exist within the individual states. Their influence did not extend across state boundaries, and against them the organization of the Congress was an adequate protection. Secure in their fixation of viewing the states as sovereign States, and given the quite enduring history up to that point of the different states barely being able to get along with one

another in any common cause except the Revolution itself, perhaps it was simply too easy to overlook the rather obvious corollary to Madison's faction-based-on-attachment-to-a-leader: if a charismatic leader can succeed in forming a small faction, a small band of charismatic leaders acting in concert can also bring together a large faction or cartel through a coalition of smaller factions.

We have had exactly one presidential election in which there was an utter absence of political parties, namely, the first one. By the time of the second election several national political parties had come into being, although these were still numerous enough to sap one another. However, Washington seems to have seen the shadow on the wall. In his Farewell Address he wrote,

> Let me now . . . warn you in the most solemn manner against the baneful effects of the spirit of party.

Unfortunately, the window of opportunity to act against "the baneful effects of the spirit of party" was all too brief, national political parties were already a force in elections, and soon the window slammed shut so far as the vulnerability of the House of Representatives to parties was concerned. The Senate still stood as something of a sentinel through its capacity to pit *states* against parties (because senators were appointed by the states rather than directly elected), but this part of the safeguard, however feeble it may have been, was eliminated altogether in 1913 with the ratification of the Seventeenth Amendment. It was now possible for a single political party to control simultaneously the House, the Senate, and the Presidency – leaving only the Supreme Court as a check, and not a very secure one at that, against party despotism. States became "blue" and "red" – party real estate.

Neither was Great Britain an example to which the Framers could look and take warning against political parties. In looking at Great Britain today – a country as much under the influence of national parties today as we are – it may be hard to remember that political parties were not a force in Britain at the time of the American Revolution. Only 215,000 men in Britain at that time had the right to vote. This was a tiny minority of the population and was comprised mainly of property holders. In the House of Commons the seats were occupied almost exclusively by members of the aristocracy, the House of Lords entirely by them. Nor did Parliament hold all the reins of power in Britain, for George III was, to use the polite phrase, a strong monarch. There was something called a constitution in place, but this had been drafted and approved entirely by the Parliament, which did not hesitate to insure that it would inconvenience neither themselves nor the king. In *The Rights of Man* Thomas Paine did not hesitate to use his talent for putting the verbal knife straight into the heart of the matter:

> A constitution is the property of a nation, and not of those who exercise the government. All the constitutions of America are declared to be established on the authority of the people. In France, the word nation is used instead of the people, but in both cases a constitution is a thing antecedent to the government, and always distinct therefrom.
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> In England, it is not difficult to perceive that everything has a constitution except the nation.

§ 3.2 The Source of Union's Vulnerability to the Lobby

If it were true that our elected representatives actually owed their election to the respect, esteem, and trust accorded their persons by the electorate, perhaps the second of our principal vulnerabilities to faction would not be nearly as serious a threat as it has become. Unfortunately, our representatives owe far more to their political parties than they do to the people who elect them, they are strangers to the great majority of the people in their districts, and their surest path to election comes from the ability to pilot that effective propaganda vehicle we call political campaigning.

At the same time, the state-centric paradigm that dominated the thinking of the Founding Fathers also was directly responsible for excluding the other faction interests Madison catalogued from any practical hope, save one, of seeing their issues and concerns addressed. That hope, of course, is to influence the elected representatives themselves. Once political parties control elections, the nature of the electoral process itself provides that hope with a practical mechanism: lobbying. It also guarantees that the influence of lobbying will go on almost entirely without attracting the attention of the citizens and without any effective mechanism by which special interest can be pitted against special interest for the preservation of the terms of the Social Contract. The lobbyist was a creature entirely unforeseen by Hamilton's "well-perfected" science of politics, yet political creature it is.

The lobbyist perhaps illustrates more clearly than anything else in our political spectrum the result of a too-narrow view of political science. Like the national political party, the lobbyist constitutes an unelected force operating outside constitutional protections for the Union. Political parties are to be seen as an unelected force because who will occupy the party leadership roles is not subject to the oversight and control of the Sovereign. Lobbyists constitute an unelected force simply because the lobby is not elected at all. Both are corrupting influences detrimental to the Union.

§ 4. The Implications of Mini-Republics

However tempting it may be to vilify them, the existence of what in chapter 3 was called the mini-republic within the general political community is an unavoidable fact of human nature for the reasons explained earlier. A mini-republic is just that: a republic. The only thing fundamentally objectionable in its character is that, inasmuch as it is a faction, it rarely serves either the general good or the general will of the Sovereign. It is undeniable that great good has been done in the history of our nation because of the efforts of committed mini-republics. The Abolitionist Movement comes to mind as the moral spark that toppled the disgraceful institution of slavery in this country. Even so, it is equally undeniable that mini-republic factions have also done the Union great harm on other occasions.

Madison correctly pointed out that there is no practical and just method to eliminate factions – mini-republics – from our midst. Even if this were possible, it would be utterly undesirable. The vital

human qualities of industry, enterprise, inventiveness, and courage, of which Mill wrote, are promoted and fed by the formation of mini-republics. Forming a more perfect union is not accomplished by eliminating the mini-republics; it is accomplished by taming their natural lusts and bringing them out of their state-of-nature relationship to the overall political community. The national – and even the state-wide – political party is a wild predatory beast that might not be possible to tame (and if so, it must be rendered impotent), but as for the rest of the multitude of mini-republics, it would seem the desired principle is simple to state: ***Let us bring the lobbyists in from the lobby*** and let them take their seats, sitting in the sunshine and in full view of the people, to do their just political work *as agents of an institute of government*. Let us convert them from stagecoach bandits to public servants employed to ride shotgun on it. Let us turn the poachers into game wardens. The question is then: How?

This question divides into two basic parts. The first is: what objectives, subordinate to the six general objectives of government, must be accomplished by the reformation of the institution of government to accomplish the purpose of insuring the protection of the Social Contract? The second is: what mechanisms of governance are needful and desirable for accomplishing these objectives? The two parts of the question are each of very great importance, but they are not equal in importance. The priority of import must be given to the question of the objectives. The question of mechanism is and must be subordinate to this one. Thus, we will begin with the first.

§ 4.1 The Prime Objective of Reformation and the Objectives of Implementation

The prime objective of this reformation, immediately subordinate to the general objective of forming a more perfect union, is: ***To provide for representation in governance of the just corporate interests of communities of mini-republics, existing within the general political community, in a manner not prejudicial to the civil liberties of any individual citizen of the Republic and congruent with preservation of the Social Contract entered into by each citizen of the Republic***.

It is no more than a political fact that within any diverse and geographically dispersed republic there will always be groups of people with common special interests not immediately shared by the entire political community. Moreover, the immediate interest of a particular subset of the people is not necessarily contrary to the general interests of the body politic as a whole and, indeed, might be mediately beneficial to the whole of the republic. A special interest only arises where a perceived need exists, and cognizance of such a need always requires a special knowledge of circumstances and facts not generally known to the whole membership of the body politic. Such special interests are the womb of industry, prudence, and enterprise – qualities of the people conducive to the success, prosperity, and advancement of the political community as a whole. That such a special interest may be motivated by particularly selfish concerns of a body of citizenry is irrelevant to this fact. It is no less than a basic

maxim of successful enterprise: that no one is more competent to recognize the existence of a need, and to propose innovations to meet this need, than persons who are directly involved with and knowledgeable in the details of that particular enterprise. All such needs are at root *practical needs* and not mere theoretical or ideological speculation. Adam Smith provided an illustrative, if amusing and simple, example of an innovation in *Wealth of Nations*:

> In the first fire-engines, a boy was constantly employed to open and shut alternately the communication between the boiler and the cylinder, according as the piston either ascended or descended. One of those boys, who loved to play with his companions, observed that, by tying a string from the handle of the valve which opened the communication to another part of the machine, the valve would open and shut without his assistance, and leave him at liberty to divert himself with his play-fellows. One of the greatest improvements that has been made upon this machine, since it was first invented, was in this manner the discovery of a boy who wanted to save his own labor.

This illustration can stand as a metaphor for beneficial social innovation. As Mill pointed out in *Representative Government*, empowerment of beneficial social innovations is a yardstick of merit for good government.

At the same time, it is equally a political fact that some special interests clash with the special interests of other people. Such is the case when the selfish interests of two groups involve the same issue but in contrary ways. Legislative sanction empowering the interest of one of these groups is then at the expense of the other. This can never represent the general will of the Sovereign and breaches the Social Contract. Therefore, ***the reformation of the institution of government must promote empowerment of beneficial interests of the first kind while insuring that selfish interests of the second kind never obtain legal sanction***. This is the ***purpose of the prime objective*** stated above.

It is important to stress that neither the prime objective nor its purpose is a matter of the will of the majority. Tyranny of the majority over the minority is the despotism of democracy. It disenfranchises the minority, violates their civil liberties, and promotes the growth of the Toynbee proletariat. It is an unjust and corrupting mechanism, and it inevitably leads to the eventual fall of the republic. The will of the majority is never synonymous with the will of the Sovereign except when it is *unanimous*.

Instituting mechanisms and functions of governance achieving the prime objective and satisfying its purpose requires lower objectives that support the prime objective. Mechanisms and functions of governance are carried out by the labors of agents of the people. In carrying out these labors, it is essential that these agents have an understanding of certain specific *objectives of implementation*. Some such objectives are stated positively and in proactive terms. Others must be stated negatively and prohibit certain tactics or conveniences of implementation that, however pragmatic, violate the overriding concern of the Social Contract. Simple pragmatism can never be allowed to gain priority over exacting fidelity to the terms of the Social Contract. The entire legitimacy of government and the

justice of all its actions derive from this precept. The objectives of implementation all serve the purpose of maintaining the moral integrity, legitimacy and justice of government.

One of the most necessary objectives of implementation is this: ***To guarantee absolute liberty of expression in speech, writing and other manners of public communication***. To guarantee this liberty to every individual is the purpose of the First Amendment. The expression of unpopular ideas is and always will be something that arouses the passions and ire of the majority who disagree with the idea. It is no more than human nature for such irate passions to lead to calls to prohibit and suppress such expression. Behind the expression and the ire is often a fear that perhaps the unpopular idea might become popular and gain the support of an oppressive majority. However, ***no one need or should ever fear an idea***. An idea is an insubstantial thing, a mere creation of thought and reflection. It is often prudent to distrust, and sometimes even to fear, the men who have such ideas because men are the agents of their own actions. But the idea itself is nothing to be feared.

To have ideas is an inalienable right of every human. This inalienable right is counterbalanced by the unalienable right to disagree with the idea and to civilly express this disagreement in a *forum of ideas*. Furthermore, even a bad idea, loaded with fallacies and practical defects, is often the source of a better refined and good idea once it has been raised, reflected upon, and debated in a forum of ideas. Indeed, most ideas at the time of their birth contain both defects and benefits all in the same idea. To remove the defects and obtain the benefits is like refining an ore, and the forum of ideas is the refinery. We are all limited and fallible beings, and it is nothing short of hubris to regard one's own ideas and considered opinions as expressions of absolute truth, absolute good, or absolute right. What Mill wrote in *On Liberty* is a vital necessity for obtaining the good from ideas, viz.,

> If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.

Good government requires good ideas. Time and technology bring change, change brings new problems and issues, and new problems and issues need new good ideas to resolve them. The refinement of ideas to obtain the good and get rid of the bad in them must be carried out in full public view. This is not to say that their original conception should not be done in semi-privacy; it is highly unlikely that the framing of the Constitution could have ever been achieved if the Constitutional Convention had been forced to do its work in the full glare of the public spotlight. In all ideas concerning weighty matters, there is a gestation period, an embryonic development. Premature exposure of an idea in embryo is like the premature birth of a baby; the chances of survival are greatly compromised, and what could have been something beneficial and good is slain by the aborting of its full development. The body of any mini-republic must be at liberty to reflect upon, within the privacy

of that specific body politic, the ideas serving its special interest. This requires nothing of government except forbearance from interference with, or allowing others to interfere with, the development of ideas and proposals in their creative phase. The privacy of one's own thoughts is an inalienable right of the individual. As no person can ever pledge to alienate this natural right, no body politic of any mini-republic can be regarded as having alienated its *corporate liberty* to develop its ideas.

Yet the work of a few, even if they be people of great ability and intellect, rarely produces a fully refined idea. There are simply too many interests that may be at stake for any private body of persons to adequately reflect upon. This is the great defect and injustice of our present system of lobbyists. It fails to provide the necessary and proper full refinement of ideas and proposals, and the necessary examination of the justices and injustices inherent in an idea. Insuring this necessary refinement is the purpose of a second objective of implementation: ***To insure a public forum for disclosure and debate of ideas concerning specific matters of governance***.

The prime objective, under which all objectives of implementation are subordinated, explicitly states that the objective is limited in scope to communities of mini-republics existing within the body politic of the general political community. But how shall the presence and just existence of these bodies be known to the Sovereign? A cabal of outlaws embedded within the *geographic* community of the republic is a body politic unto themselves, but their social compact is not with the Sovereign. Mere association does not produce a legitimate mini-republic or even necessarily any republic at all. The community of a mini-republic, by its very definition, is comprised of citizens of the republic, each possessing his civil liberties and owing to the general community certain civic duties. An outlaw body has taken upon itself no obligations to the republic and owes it no civic duties, but it likewise holds no civil liberties, as these are only exchanged in return for the assumption of civic duties to the republic. Among the civil liberties it does not have is the liberty of expression. Indeed, to grant such a body liberty of expression is contrary to justice for the citizens of the republic.

Likewise, it is possible for a group of citizens to make a special compact among themselves for the intent and purpose of obtaining a special favored status or a special civil liberty not shared by the general body of the republic and contrary to, or even in flat contradiction of, the terms of the Social Contract. This is not an intent any citizen or group of citizens is at liberty to carry out, nor is there any legitimate justification to be found in semantic sophisms that amount to the pernicious claim, "Any of you could do likewise." Such an argument holds no more substance than a sophist declaration, "*I* became wealthy, and therefore *you* can too." Equality of opportunity is not the same thing as equality of outcomes, and it is only the former and not the latter that belongs to the Social Contract. To grant one person or group of persons, by whatever means, a special favored status or a special civil liberty that cannot be *practically* extended to every person is unjust, in violation of the Social Contract, and is

a transgression of the sworn duty of every citizen. It is in the very nature of such special liberties to be purchased at the expense of the civil liberty of others. Such liberties can only be called *uncivil* liberties. Because the act of conspiring to obtain an uncivil liberty is an intentional transgression of duty, its commitment is a crime. The person who acts in such a manner is a criminal, forfeiting *all* his civil liberties by acting to set his own selfish interests against those of the body politic of the republic. Citizens who conspire together for this purpose *and then act upon it* do not comprise a mini-republic but, rather, a criminal organization.

However, there enters into our consideration at this point another factor, namely the *unintentional* transgression of duty. It is not merely possible but certain that from time to time well-meaning citizens will form and act upon ideas contrary to the corporate interests of the republic without understanding these ideas to be contrary to the general corporate interest. This is in the nature of ideas not yet fully refined. Such persons commit a mere *fault* and not a crime. The act is culpable but not criminal. It reveals a lapse of or shortcoming in civic moral judgment, but it is not an immoral act and is merely, by virtue of its unintended nature, an *amoral* act. The culpability is removed by the act of submission to the general will of the Sovereign. This is the *civic* moral lesson conveyed by John 8:11, "Neither do I condemn you; go, and sin no more."

It is essential to justice and for the sake of the general civic morality that the outlaw act, the criminal act, and the merely amoral act be distinguished. The outlaw body and the criminal body must be excluded from participation in governance so that any congress of mini-republic representatives may be constituted and composed in accordance with justice for all. That is the *purpose* served by the third objective of implementation: ***To provide a constitutionally established congress of special civic interests for the just cultivation and refinement of the perfection of the Union***.

The deliberate use of the word "congress" just now is unlikely to have gone unnoticed. It is most natural to raise at once the questions: Is this not getting ahead of itself? Does this not speak to the mechanism of implementation rather than to the objective of implementation? Are there not many ways of fulfilling the purpose? Perhaps. But the objective of implementation must accord with republican principles, and this accord by its nature calls for representation in government. Madison, in *The Federalist*, no. 10, wrote,

> No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay, with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine?

In any issue involving any special interest there will most commonly be at least two immediately

interested mini-republics, and their specific interests are at first likely to appear to be mutually conflicting. Yet it will often be the case where, upon further refinement of the idea, the need of the mini-republic raising the issue can be satisfied without prejudice or harm to the interests of others. Likewise, it is possible the idea itself may be irreconcilably culpable, in which case the cause and reason of its irreconcilability with the common interests of the Republic must be heard. This requires a forum comprised of representatives who are largely *disinterested* in *most* particular special interests. And what would such a forum, instituted as an integral part of the legislative institution of government, be called if not a congress?

There appears to be no need at all for any governmental mechanism for the formation of special interest groups. It is quite evident that such alliances form all on their own out of the incentives of whatever kind that motivate groups of people to band together. A list of examples would include small business alliances, farmer's associations, trade associations, manufacturing associations, financial associations, labor unions, parent-teacher associations, ecumenical councils of various churches, nonsectarian councils of multiple churches, consumer unions or advocacy groups, the American Medical Association, insurance associations, renter's associations, property owner's associations, higher education councils, the Bar Association, various professional associations, the Civil Liberties Union, the National Association for the Advancement of Colored People, the National Rifle Association, and so on. Other alliances, often of a very transient nature, coalesce for a time around a particular single issue; these can be called single-issue unions. There is every reason to think spontaneous special interest citizen organizations, confederacies, and associations – some long-lived, some short-lived and transient – will form and disband over time quite of their own volition.

There is another group of people living within the American Republic that deserves mention as well, even though they presently have formed no nationally recognized and official special interest organization. These are the non-citizen immigrants holding permanent residence status. These people are legally granted most of the civil liberties enjoyed by our current entitlement citizens save only the right to vote. Many of these people intend to become naturalized citizens eventually; many of them are content to merely live within the geographic boundaries of the United States while retaining their foreign citizenship. Many of them belong to recognized ethnic groups, the largest and most familiar of which are the Hispanic and various Asian ethnic groups. Their civil liberties are not protected as carefully as those of U.S. citizens; for example, permission to continue residing in our country is left in the hands of the Immigration and Naturalization Service, which conducts its business by means of a facsimile of a court system but one which operates in an often secret and authoritarian fashion that does not provide nearly the degree of oversight for the protection of the granted civil liberties the citizen enjoys in the public judicial system.

The political status of these people as members of the body politic is to a degree problematical. It is somewhat less problematic in the cases of those who have filed legal notification of intent to become U.S. citizens since in their cases it is proper to look upon them as citizens-to-be in a manner not entirely unlike the considerations discussed earlier in regard to children. It is considerably more problematical in the cases of those who have not filed notice of intent to seek citizenship. The great majority of these legal immigrants hold down jobs, participate in the social life of their communities, abide by the laws, pay taxes, and take part normally in every aspect of life in the political community except for the exercise of franchise. There can be no doubt that this group of residents within the geographical community of the United States have special interests of their own. It is also beyond doubt that they do participate in various special interest mini-republic associations, such as a church, a labor union, a professional society, etc.

This last point especially raises an important issue. Permanent resident legal aliens currently have no representation in government other than what an elected representative in their own geographical community might decide to provide for them. If the mini-republics in which they associate acquire representation, such as we are discussing here, do their inclusions of non-citizen members prejudice or restrict the political representation of the mini-republic in government? Does the omission of an official notification to seek naturalized citizenship necessarily place these people in an outlaw status?

Any humanitarian or even common sense reflection upon these questions could only lead to answering both questions in the negative *without injury to the Social Contract*. Let us remember the fundamental term of this compact: *Each person puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole*. The unspoken and unwritten presumption of this compact is what justifies the civil liberties we already grant to legal immigrants. *Any* person who freely makes this compact, regardless of the current legal definition of citizenship, *is* a member of the political community. In the case of the legal immigrant, the only difference is restriction of suffrage in the election of local, state, and general agents of the government, and acceptance of this restriction can be seen as nothing more than freely agreeing to alienate the claim to suffrage until such time as the person becomes a naturalized citizen. It also follows at once that people in this political status *have the civil liberty* to form any mini-republic association as they see fit, to do so without prejudice or threat to their legal immigration status, *and to have their special interests represented in a congress assembled for that purpose,* such as we are discussing here.

Finally, there are various criminal and outlaw associations that make and unmake themselves: the Ku Klux Klan; various neo-Nazi cabals; the so-called "Militias"; cults that form around some charismatic sociopath and masquerade as churches; street gangs of thugs, local as well as those

expanded over larger geographic regions; organized crime associations; and criminal cabals formed for the purpose of restraint of trade, price-fixing, or other such uncivic violations of the social compact. These forms of associations, being either criminal or outlaw, are infections in the body politic and *forfeit all claim to representation in government*.

These general cases illustrate a particular necessity in meeting the prime objective. While it is quite easy to determine whether an individual is a civic citizen or not, it is quite another matter to recognize whether or not *the corporate body* of an association constitutes a mini-republic bound by the Social Contract to the general political community. Unlike the specific individual, who is a product of nature, an association is the product of convention, and it cannot be automatically presumed that all such associations freely assume, in what we may call their ***corporate person***, the obligations and duties of the social compact. Rather, there must be a mechanism of government, responsible to the Sovereign, to judge the claim of an association seeking representation and to receive the explicit and binding commitment of that corporate person to the terms of the Social Contract. Among other responsibilities, this mechanism must insure that no mini-republic, by any sophistic or semantic division of itself into allegedly separate parts, is able to gain an unjust over-representation in the congress of special interests. The burden of *proving* its distinctive and legitimate special character falls upon the association seeking recognition of just representation of its special interests. *No* association has an *entitlement* to representation merely because it is an association of citizens.

Accomplishing this is the purpose of the fourth objective of implementation: ***To provide for the validation and chartering of legitimate mini-republics exercising the civil liberty of representation in a congress of interests, for granting their just petition for recognition in that body, and for judging cases of impeachment of a recognized mini-republic for reason of uncivil conduct***. Because this objective concerns judgments of just claims to representation in government, we can see that there is a judicial as well as a legislative function involved in meeting the prime objective. We might very well call this the principle of ***naturalized corporate citizenship***.

There is one class of corporate persons that requires special discussion. This is the class of religious organizations and associations. There can be no doubt whatsoever that the special interest of religion is an extremely powerful social force. History has amply demonstrated time and again that religious associations can be a force for enormous social good or they can be a force for great social evil. Nothing could be more clear than that the special interests of religious organizations are not only deserving of representation, but that failure to provide for this would be so short-sighted as to amount to pure folly. Yet there will be many who at once raise the objection that a seat in representative government granted to any religious body violates the principle of separation of church and state, and there will likewise be many religious leaders who object on the grounds that churches should not

participate in politics.

Both objections are baseless. Let us start with the First Amendment:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for redress of grievances.

Representation of the special corporate interests of religious organizations is in no way regardable as establishing religion. Religion is already self-established in this country. At the same time, religious bodies have various political interests not immediately connected in any way with specific religious doctrines or any specific theology. For example, in this country we have seen fit to give churches tax-exempt status. Furthermore, churches and religious organizations are assemblies of people, there are numerous legal issues that these people see as impacting in one way or the other on the civil liberty of practicing religion, and from time to time these people have legitimate grievances to voice. The First Amendment is not in conflict with the representation of the *nonsectarian* interests of religious bodies in government, and indeed grants the civil liberty to air these *public* interests in open debate. Seen in this light, it is not merely prudent to provide for the representation of these civil and nonsectarian interests, but *necessary* to do so.

However, this civil liberty, granted and chartered to the corporate persons whose special interest happens to arise through religious associations, comes at a price. The price is alienation of the exercise of political power to *impose* specific religious doctrines, theologies, practices, or restrictions upon any member of the general political community of the Republic. *Every* mini-republic *granted* the civil liberty of participation in government through the representation of its corporate person *must* freely make the social compact on behalf of *all* its members, *must* take on the obligation that comes with this, and *must* perform the duties of civic corporate citizenship that come from the obligation. This includes the *complete* alienation of any and all right to press for the passage of *religious* laws. This is the *civic* moral lesson of Romans 14:5, "Let every one be fully convinced in his own mind."

Government of the American Republic cannot be *in any degree* a theocracy. It is the freely-given alienation that guarantees separation of church and state. *Intentional transgression* of this pledge is a *crime* and constitutes impeachable conduct. Unintentional transgression, e.g. in pressing for a law foundationally doctrinaire or ideological in nature without recognition that this would be a religious law, is merely a fault and the action merely culpable. Any religious affiliation or organization refusing to abide by the civic pledge to not hinder the civil liberties of other citizens *makes itself* either a criminal or an outlaw association, depending on whether, in its corporate person, it has bound itself to the social compact or else has refused to make the social compact.

To sum up: this section has set out a prime objective and four objectives of implementation for

amending the institution of government such that the Republic is better safeguarded from the faction of the lobby. It has laid out the purposes underlying each objective. The objectives are:

The Prime Objective: ***To provide for representation in governance of the just corporate interests of communities of mini-republics, existing within the general political community, in a manner not prejudicial to the civil liberties of any individual citizen of the Republic and congruent with preservation of the Social Contract entered into by each citizen of the Republic***.

The Objectives of Implementation:

1. ***To guarantee absolute liberty of expression in speech, writing and other manners of public communication****;*
2. ***To insure a public forum for disclosure and debate of ideas concerning specific matters of governance****;*
3. ***To provide a constitutionally established congress of special civic interests for the just cultivation and refinement of the perfection of the Union****;*
4. ***To provide for the validation and chartering of legitimate mini-republics exercising the civil liberty of representation in a congress of interests, for granting their just petition for recognition in that body, and for judging cases of impeachment of a recognized mini-republic for reason of uncivil conduct***.

§ 4.2 The House of Interests

The first thing that must be stated in this section is this: It is beyond the competence of any one person to lay out in every detail every specific that requires consideration for the institution of good republican government. A person believing himself to be endowed with such sublime wisdom as to be competent to do so would be possessed by a delirious *chutzpah* that nearly transcends the power of human imagination and deserves to be called megalomaniacal. The specific and detailed ideas for the mechanisms and functions of government must be thoroughly refined, must command consensus, must be founded in civic morality, and must stand in absolute allegiance to the Social Contract.

What is within individual human power to accomplish is to treat the basic principles and rational implications for the form of good republican government, recognizing all the while that the first such treatment is still an impure idea not yet refined in the public crucible of sober reflection and calm discussion. It is no less than a maxim for success that mechanisms and functions for good government must answer to the objectives they must meet and conform with the purposes of those objectives. Mere expedience can never justly come to supervene the objectives and purposes.

The Framers of the Constitution recognized one great division of special interests in their refinement of the power of legislation in the general government. On the one side of this division was the individual citizen – an indivisible part of the body politic and the basis of its foundation. On the other side were the individual states – differing in geographic region, in local mores and folkways, in

commercial, agricultural, and in other interests. Put plainly, Iowans are not Californians; Californians are not New Yorkers; New Yorkers are not Texans; Texans are not Hawaiians; and so on. The citizens of the individual states can no more be expected to alienate those cultural and other aspects that bring forth the unique distinctions and personal attractions in their communities than one individual would be expected or willing to give up his personal identity and character.

This was one consideration in the decision to divide Congress into a House of Representatives and a Senate. It was also a point of great contention among the delegates to the Constitutional Convention, as comes through clearly in Farrand's *The Records of the Federal Convention of 1787*. The delegates were closely split over the question of having each state enjoy equal representation in the Senate, with opponents of this fearing the tyranny of a larger number of small population states over a fewer number of large population states, and supporters fearing just the contrary. Contention over the details of our two-house structure and the different apportionment of votes in each was so contentious that the Constitutional Convention came within a hair of dissolving on this one issue.

The larger states, who favored population-based apportionment of votes in both houses, tended to use arguments extolling the justness of democracy to support their case. The smaller states, who favored equality of representation of the states in both houses, tended to use the argument that the system envisioned by the other side favored the tyranny of democracy and oppression of smaller states by larger ones. We arrived at the system we have now only after a select committee of delegates was formed to work out a compromise. This is the one familiar to us today where there is inequality of state representation in the House of Representatives and equality of state representation in the Senate. It is interesting and instructive, in gaining an appreciation of how fierce was the contention over this issue, to read the report delivered to the Maryland legislature by Maryland delegate Luther Martin (vol. III, Appendix A, CLVIII, of *The Records*). It is also instructive, and congruent with the argument made in this treatise regarding the representation of mini-republics, to look at Martin's words concerning the principles that eventually made the compromise possible:

> [19] Having thus established these principles, with respect to the *rights of individuals* in a *state of nature*, and what is due to *each*, on entering into government . . . they proceeded to show, that *states*, when *once formed*, are considered, *with respect* to *each other*, as *individuals*, in a state of nature; that, like individuals, each *State* is considered *equally free* and *equally independent*, the one having no more right to exercise authority over the other . . . That, when a number of *States* unite themselves under *a federal government*, *the same principles apply to them, as when a number of individual men* unite themselves under a State government. That every argument that shows *one man* ought not to have *more votes* than *another* . . . proves that *one State* ought not to have *more votes* than *another* . . . So *each State*, when *States enter* into a federal government, are entitled to an equal vote; because, before they entered into such a federal government, *each State was equally free* and *equally independent*. – Luther Martin

Martin's last clause quite obviously does not equally apply to other forms of mini-republics because:

(1) the special interest mini-republics did not first form in a state of nature but, rather, within a republic already constituted; and (2) the citizen members of these mini-republics also belong to several others of them, in contrast to state citizenship. However, the *principle* of regarding states (and also mini-republics) as corporate persons does apply to our present discussion when we come to the question and issue of representing those interests justly and fairly in the legislative process.

The House was to represent the *individual* interests of the persons in the congressman's district, the Senate the *corporate* interests of the body of citizens in the state. It does not go too far to say the House was to be *personable*, the Senate to be *incorporational*. Members of the House of Representatives were to be directly elected by the people and subject to the most frequent reelections. In *The Federalist*, no. 57, Madison wrote,

> [Those] ties which bind the representative to his constituents are strengthened by motives of a more selfish nature. His pride and his vanity attach him to a form of government which favors his pretensions, and gives him a share in its honors and distinctions. Whatever hopes or projects might be entertained by a few inspiring characters, it must generally happen, that a great proportion of the men deriving their advancement from their influence with the people, would have more hope from preservation of their favor than from innovations in the government subversive of the authority of the people.
>
> All these securities, however, would be found very insufficient without the restraint of frequent elections. Hence . . . the house of representatives is so constituted, as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain, unless a faithful discharge of their trust shall have established their title to a renewal of it.

This would seem a sound recipe indeed in a nation: (1) without only two strong national political parties, each with its political bosses, both elected *and unelected*, to whom the representative is more immediately answerable than to the people who elected him; (2) without paid special interest lobbyists by the hundreds tugging constantly at the congressman's sleeve out of the public eye; and (3) without the presence of party-organized fund raising to finance those frequent reelection bids. These are factors that move to transfer the interests of the congressman from a dependency on his constituents to a dependency on political forces whose interests often clash with those of his constituents.

The House of Representatives was to give the general government its *national* character, i.e. that character of the general government that was to be responsive to the individual citizens. The Senate, on the other hand, was to give the general government its *federal* character, i.e. that character of the general government that was to be responsive to the incorporated interests of the Sovereign as a federated community. Senators were to be older men, more experienced, and held in higher esteem for their *demonstrated* powers of wisdom and judgment. It is not hyperbole to say they were to be the republic's equivalent to respected tribal elders, men of demonstrated quality, character, and ability in

their home states. In *The Federalist*, no. 62, Madison wrote,

> Among the various modes which might have been devised for constituting this branch of the government, that which has been proposed by the convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring a select appointment, and of giving the state governments such an agency in the formation of the federal government . . . and may form a convenient link between the two systems.

Senators were to be appointed by the state legislatures. This is still republican in character and not undemocratic; appointment of senators reflected *indirect* election by the people *through* the election of the state legislators. It transferred the burden for the searching examination of a senator's qualities of character and judgment to the men and place where these qualities would have been most often and most consistently on exhibit. It made senators beholden to the *incorporated* interests of their home states. This double advantage was lost when the Seventeenth Amendment was ratified. Although there was never a time when senators were free of influence from their respective *state* party organizations, they at least were relatively shielded from lobbyist influences, and their qualifications for service in that branch of Congress *which is charged the most with safeguarding the general will of the Sovereign* was scrutinized much more closely than the general citizenry could ever have either the time or the inclination to do. Today senators are every bit as vulnerable to the same conflicts of interest as the members of the House – and all because of a naive, ill-considered, and irrationally exuberant frenzy for direct democracy that seized the country in 1912, and which was based on a utopian ideal that has *never once existed in*, and is indeed starkly contradicted by, *all* of human history. The Seventeenth Amendment was a terrible and thoroughly *uncivic* blunder.

In both cases, as well as in the cases of the President and the Justices of the Supreme Court, the goal for which the Framers were striving was that the reins of governance should be placed in the hands of persons of the best quality, character, and intellect to govern competently and justly, while at the same time safeguarding the Republic against the baser instincts and passions of humankind. In *The Federalist*, no. 57, Madison wrote,

> The aim of every political constitution is, or ought to be, first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society; and in the next place, to take the most effectual precautions for keeping them virtuous, whilst they continue to hold their public trust.

If today our public stewards are too frequently less than we should wish for in the first case, and the precautions far less effective than we should wish for and expect in the second, this is not the fault of republican government but, rather, the fault of the system of mechanisms constituting it. This means neither that the system should be scrapped wholesale – what a stupendous folly that would be! – nor that it is a sacred institution to endure like the Great Pyramid of Khufu, preserved unchanged through the ages. The case is neither.

The immediate aim of the objectives stated in the previous section is to bring special interests into the full glare of the public spotlight and to insure that legislative ideas for meeting these interests get the broad refinement necessary to safeguard the understanding upon which the social compact of the Republic depends *essentially*. Representatives of special interests should never be allowed to *directly* legislate; this is because any special interest is, by definition, an interest not common to all the people. At the same time, the special interests are frequently vital to the health and progress of the nation and all its people. It therefore seems that the most efficacious way to accomplish both the safeguard and the benefit is to erect a third branch of Congress, a branch we would call an ***indirect legislative*** branch. A suitable name for this new branch is the ***House of Interests***.

Let us consider the general character of the constitution of a House of Interests. In the first place, its members represent specifically defined *and chartered* mini-republics. These mini-republics are to be viewed as *corporate* persons. These members are neither elected nor appointed by the populace of the political community as a whole but, rather, by the membership of the mini-republic they represent. In this, the membership is identical in concept to the concept the Framers had for the makeup of the Senate. The number of representatives from each mini-republic, like the number of senators from each state, should therefore be fixed. Two would seem to be an adequate number in order to keep the total membership in the House of Interests to a manageable size, while at the same time providing at least a partial means for preventing a division of views *within the mini-republic itself* from going unrepresented in the House of Interests. This latter is a safeguard *provided to the members of the mini-republic*. Indeed, the States were our earliest example of a clear body of conflicting corporate interests and so it seems fit and proper that the makeup of the House of Interests should be modeled along the lines of the original plan for the makeup of the Senate. If we wish a specific name for the members, we can borrow a metaphor from the Roman republic and call them ***tribunes*** of the House of Interests.

In order to balance the dual needs for a member of the House of Interests to *both* mediate and help refine ideas *and* to remain responsible to the mini-republic he represents, the members should be elected or appointed by their respective mini-republics for a fixed term of office. They should not be directly recallable by their electors/appointers during that term, although they should be impeachable for political misconduct in office. Members of the House of Interests are to be representatives of, not ambassadors from, their mini-republics. In order to provide for the most benefit of experience, enhance the environment for calm judgment, and promote (to the highest degree possible in a body deliberately designed to pit faction against faction) the quality of civic morality in the membership, the terms of the members should be lengthy, perhaps six years as is the case for the Senate and by the same reasoning the Framers used in crafting the Senate.

Next, just as there is a mechanism for the admission of new states to the Union, there must be a

mechanism for admission of mini-republics to the House of Interests. One feature that greatly distinguishes the mini-republic from a state is that the latter is geographically identifiable, while the former is not. A second difference is that while an individual citizen is likewise a citizen of one and only one state, he can, all at the same time, be a member of several mini-republics. This is in the very nature of special interests, and it is why the mini-republic is regarded as *one* corporate person. How shall a just and legitimate mini-republic be recognized and admitted to representation? Here we can find an historical precedent that, suitably modified, would seem to provide the most efficacious yet prudent model: the Charter.

Corporate bodies established by charter existed in England as early as the fourteenth century. The early ones, such as the Merchant Adventurers of England (1390) and the East India Company (1600), were established by royal charter. In later years, charters of incorporation could be granted by either the Crown or by Parliament. Commercial chartered corporations brought commercial stock companies into being, although most early chartered corporations were formed for public services such as rail-ways, water works, gas works, charitable purposes, and such likewise activities. It proved necessary, for the public good and to redress numerous cases of abuses, to regulate the manner in which a body of people could become incorporated and retain their corporate status, to require each to have a constitution of its own, a definable membership, and specific stated purposes and aims.

It is not necessary to expound at length here on all these finer details, but there is one that must be discussed. It would be a simple matter for the leaders or membership of a mini-republic to recognize it would be to their corporate advantage to obtain charters for as many of their specific special interests as possible, thereby increasing their apportioned representation and power in government. This sort of uncivic mischief must be prohibited and prevented. Every body applying for a charter of representation must be required to prove and demonstrate their legitimate and *full* independence from already existing chartered mini-republics. This is a function not wisely entrusted to the House of Interests itself because it impacts the whole of the political community through the powers exercised by the House of Interests. At the same time, this function must be safeguarded as much as possible from tyranny by majority, else any mini-republic with a large enough membership could effect a fictitious division of itself through the mechanism of popular elections. For this reason, it would be unwise to entrust the chartering of mini-republics to the House of Representatives. If, however, the Seventeenth Amendment were repealed and the Senate restored to its proper constitution of indirect representation, the power to charter mini-republics could then be entrusted to the Senate with a channel of appeal and review through the Supreme Court.

Third, the House of Interests must have the power to *propose* legislation but not to *enact* it. This is a necessary safeguard of civil liberty because it is the nature of special interest legislation to directly

benefit only a fraction, and not the whole, of the body politic. There may be – indeed, there *must* be – an *indirect* benefit of special interest legislation or, at least, a *neutral* general effect, but the fact remains that special interest legislation always has a great potential for infringing upon the unalienated rights of citizens. For this reason, legislation proposals emanating from the House of Interests (the HI) should be conveyed to the House of Representatives (the HR). The HR, in its turn, must be given the responsibility for actual enactment, subject to the usual consent of the Senate. Furthermore, it must then be the *duty* of the HR to bring legislation proposals from the HI to the floor for debate and vote. Proposals from the HI must not be allowed to be blocked by any committee within either the HR or the Senate. At the same time, it is in the nature of special interest legislation to be highly technical, and because of this it cannot be assumed that congressmen in the other two legislative bodies possess the detailed knowledge necessary to properly understand all the implications that might attend amendment of the HI proposal. Therefore, neither the HR nor the Senate should be permitted to *amend* legislation proposed by the HI. Instead, a proposed HI bill should be either passed as stands or vetoed. In the latter case, it is to be returned to the HI, with the specific objections of the HR and the Senate attached, which can then, at its discretion, further refine and amend it. The proposed legislation, after further refinement and amendment, can then be resubmitted to the House of Representatives.

Fourth, it is not only possible but likely that other normal legislative acts of the HR and the Senate may infringe upon the just and legitimate interests of one or more mini-republics. This is, indeed, the weakness and danger of legislation by majority. The HI, therefore, has the just and legitimate function of evaluating and judging the congruence of normal legislation, originating in the HR or the Senate, with the just and legitimate interests of the corporate persons represented by the tribunes of the HI. The need for exercise of this function does not arrive until a bill has passed both the HR and the Senate and obtained the consent of the President. However, at that point the bill should then pass to the HI for one last consideration. The HI cannot be given the power to amend such a bill, but it must be given the power ***to exercise a veto***. In this case, the bill is to be returned to the body in which it originated with the objections of the HI attached. This power granted to the HI must encompass all normal acts of legislation not immediately concerning the *general* public interest. Examples of the latter would include: declarations of war by Congress, passed by the HR and Senate; the Senate's prerogative of advice and consent in treaty matters, appointment of judges, and the like; the function of the HR to select the President of the United States in the event that no candidate receives a majority of the Electoral College votes, or the prerogative of the Senate in selecting the Vice President of the United States under this same circumstance; the process of Constitutional amendment; the impeachment and trial powers of the HR and Senate; prerogatives of the President of the United States to issue Executive Orders and conduct the normal execution of the functions of government; and

legislation for the redress or relief of injustices, public safety in the event of natural disasters, or acts of violence perpetrated upon the U.S. by foreign or domestic powers or agents. In matters such as these, the HI has no just special power, privilege, or standing.

However, the right of veto by the HI *is* to extend to matters of taxation and budget because both taxation and special tax provisions favoring specific interests or promoting special social goals *do* affect the corporate persons and come within the just and legitimate function of the House of Interests. It has become a pernicious tactic of Congress to draft budget and tax legislation measures in the form of enormously thick single-package bills, making it a practical impossibility for any member of Congress to adequately study and reflect upon the countless provisions contained within them. This tactic is at best a culpable fault in the actions of Congress, and at worst a crime against the body politic. The most energetic interest in the specific provisions of such opaque acts of legislation is, almost beyond a reasonable doubt, to be found within the membership of a House of Interests.

Finally, regarding the makeup of the assembly of tribunes, the number of represented mini-republics must be large enough to adequately span the scope of the diverse interests of the political community, but not so large that it forestalls all productive function of government. Madison wrote in *The Federalist*, no. 55,

> Nothing can be more fallacious than to found our political calculations on arithmetical principles. Sixty or seventy men may be more properly trusted with a given degree of power than six or seven. But it does not follow, that six or seven hundred would be proportionably a better depository. And if we carry the supposition to six or seven thousand, the whole reasoning ought to be reversed. The truth is, that in all cases, a certain number at least seems to be necessary to secure the benefits of free consultation and discussion; and to guard against too easy a combination for improper purposes: as on the other hand, the number ought at most to be kept within a certain limit, in order to avoid the confusion and intemperance of a multitude. In all very numerous assemblies, of whatever character composed, passion never fails to wrest the scepter from reason.

The case of the body of mini-republics is unlike states and legislative districts, the two ways and means the number of congressmen is determined. It is not easily foreseeable how large the number of just and legitimate mini-republics is, nor how time may swell this number, because it is not ultimately limited by or tied to the number of people in the Republic. Therefore, in constituting the House of Interests, ***there should be a chamber system***, each chamber so constituted that *naturally opposing* special interests are always represented within *the same* chamber and each chamber is comprised of a sufficient number of members to provide the benefits Madison states above. The number of chambers should be made variable and determined *by prerogative of the Senate* with *the advice and consent of the President of the United States* providing for the necessity of checks and balances. Furthermore, this chamber system must allow for the constitution of a hierarchy of successively higher *councils*, the purpose of which is to coordinate the efforts and acts of the lower chambers and mediate disputes,

perhaps in the manner of the current House-Senate conference committee. Determination of the specific structure of this hierarchy, like that of the chambers, is the prerogative of the Senate with advice and consent from the President. But the *members* of such council or councils are to be *elected* by and from the immediately lower chambers or councils of the HI. It is to be stressed that within this hierarchy of chambers, it is still required that the HI *as a whole* give its approval to proposed legislation to be transmitted to the House of Representatives, and likewise for the exercise of its power of veto. The purpose of the chamber hierarchy is merely to facilitate the business of the HI while still providing a civil forum for the refinement of ideas.

§ 5. Political Parties

Of all the imperfections infringing upon the social compact of the Republic, none is more serious, more powerful, or more well entrenched within the existing power structure than the political parties. The often-praised two-party system is an uncivic system having the twin destructive effects of: (1) ensuring the tyranny not of the majority but, worse, a *plurality* over all other members of the body politic; and (2) being the direct cause of a growing Toynbee proletariat within the nation. Political parties have proven their adeptness at overcoming most of the key safeguards the Framers tried to build into the Constitution, and have demonstrated a willingness to mislead, to dissemble, and to warp the elective process. They have demonstrated consistent uncivic conduct, violated the social compact time after time, and been responsible for numerous acts of power that can only be called unjust, illegitimate, and despotic. Washington was indeed right to call the spirit of party "baneful."

And yet the formation of political parties is at the same time a legitimate and unalienated right of free association. Despite its *corporate* misconduct, the institution itself cannot be justly banned. But this does not mean this political beast cannot or should not be defanged, de-clawed, and domesticated by means of the structure of the functions and mechanisms for government and elections.

To find means of doing so, it is first necessary to understand the nature of the beast. The corporate being of the political party is comprised of four sources. The lowest yet most basic is comprised of party-affiliated but relatively inactive citizens. This body generally pays little attention to party matters except when elections draw near, is poorly informed or even misinformed about the party's goals, and becomes only temporarily active when the political primaries are held and party-sponsored candidates become known. Next are the party activists, the energetic core of the party. Next come the party bosses, who are typically career politicians and might or might not be elected office holders. Last come the party allies. These are generally divisible into two groups: (1) citizens temporarily drawn to support the party, or some sizable fraction of its specific candidates, by specific causes peculiar to a particular election; and (2) various other special interests who financially support the party because it

is a means acquiring influence in getting their private interests satisfied through legislation.

It is quite wrong to think the uncivic and naturally despotic character of the political party is to be explained by the unjust and false presupposition that this character is a reflection of civic immorality on the part of the party membership. In any political party large enough to be a political force, the great majority of its members love their country, are motivated by patriotism, feel their cause is just, think their ideas are right and ought to prevail – or that the ideas of the opposite party are wrong and must be opposed – and are ready to be ardent champions of liberty and justice. They think rule by the majority is the only practical way a government could work, failing to understand that *rulership*, whether it be benevolent or malevolent, is despotism and not at all the same thing as *leadership*. With very few exceptions, they have never known any other political system than the current party system and take it for granted that this is the correct and perhaps the only means of free and representative government. They fail to distinguish between the Sovereign and the government. They take for granted the presupposition that any adversary system must always produce winners and losers. They delude themselves into thinking the majority of the losers will in the end actually benefit from the rule of their party, and that only evil men will suffer deserved and righteous justice at their hands.

Taken one by one as individuals, the motives of the great majority of party members are virtuous, and their mistaking of rulership for leadership is merely ignorance. The uncivic and despotic nature of the political party is not due to civic immorality on the part of individuals but, rather, on the uncivic nature of mob behavior. A mob is any collection of persons defined only by shared purpose and intent. When that purpose or intent stirs the passions and emotions, as it invariably does in political matters, the likelihood of the mob committing destructive and antisocial actions in pursuance of their common purpose greatly increases. The body commits acts that most of its individual members would never commit, or want to commit, singly. A peculiar mob psychosis takes hold. Political opponents are recreated as either demonic enemies to be crushed or ignorant peasants requiring protection from their own vulgar passions, stupidities, and prejudices. A dispute becomes a *casus bellum*. The refinement of ideas is first shoved aside and then trampled in a stampede of ideology, and

> The ruling passion, be what it will,
> The ruling passion conquers reason, still.[1]

In 1971 an experiment destined to rock the world of psychology was carried out at Stanford University. It was headed by Professor Philip G. Zimbardo, a social psychologist, and has become known as the "Stanford Prison Experiment." Twenty-one undergraduate student volunteers, each carefully prescreened and selected after being rated highly for emotional stability, maturity, and law-

[1] Alexander Pope, *Moral Essays, Epistle V, To Mr. Addison*, 1720.

abiding nature, took part. Ten were randomly assigned to be prisoners, the remaining eleven assigned to be guards. One of Zimbardo's colleagues played the role of warden. The experiment was planned to last for two weeks. It was terminated by Zimbardo on the sixth day. He wrote,

> What was surprising about the outcome of this simulated prison experience was the ease with which sadistic behavior could be elicited from quite normal young men, and the contagious spread of emotional pathology among those carefully selected precisely for their emotional stability.

One of the young "guards" wrote in his diary, on the fifth day of the experiment,

> I have singled him [one of the prisoners] out for special abuse both because he begs for it and because I simply don't like him . . . The new prisoner (416) refuses to eat his sausage . . . I decided to force feed him, but he wouldn't eat. I let the food slide down his face. I didn't believe it was me doing it. I hated myself for making him eat, but I hated him more for not eating.

What began as mere play-acting, with nothing at all at stake for any of the participants, turned malevolent and violent in less than five days. It is now recognized to be in miniature a classic illustration of the dark side of mob psychology. Zimbardo called the outcome "surprising" but the psychology community as a whole was shocked by what had happened. The Stanford Prison Experiment has never been repeated; to do so is now regarded by the psychology community as an extremely serious breach of professional ethics.

Take this illustration of the vulnerability to mob psychosis of human moral judgment and translate it onto the political stage; the root of civic immorality in party politics then loses all mystery. Political parties are not dangerous to liberty and justice because they are made up of people; they are dangerous to liberty and justice because they are corporate persons whose special interest is in acquiring political power to realize other ends. Only a tiny handful of its members seek power for the sake of power alone; only this tiny handful produce the civic criminals within a party's body politic.

The political parties have created themselves as corporate princes in the political community. Rousseau wrote,

> As the particular will acts constantly in opposition to the general will, the government continually exerts itself against the Sovereignty. The greater this exertion becomes, the more the constitution changes; and, as there is in this case no other corporate will to create an equilibrium by resisting the will of the prince, sooner or later the prince must inevitably suppress the Sovereign and break the social treaty. This is the unavoidable and inherent defect which, from the very birth of the body politic, tends ceaselessly to destroy it, as age and death end by destroying the human body. . .
>
> Government undergoes contraction when it passes from the many to the few, that is, from democracy to aristocracy, and from aristocracy to royalty. To do so is its natural propensity. . .
>
> The dissolution of the State may come about in either of two ways.
>
> First, when the prince ceases to administer the State in accordance with the laws, and usurps the Sovereign power. A remarkable change then occurs: not the government, but the State, undergoes contraction; I mean that the great State is dissolved, and another is formed within it,

> composed solely of the members of the government, which becomes for the rest of the people merely master and tyrant. So that the moment the government usurps the Sovereignty, the social compact is broken, and all private citizens recover by right their natural liberty, and are forced, but not bound, to obey.
>
> The same thing happens when the members of the government severally usurp the power they should exercise only as a body; this is as great an infraction of the laws, and results in even greater disorders. There are then, so to speak, as many princes as there are magistrates, and the State, no less divided than the government, either perishes or changes its form.

It might ultimately be found true, as Rousseau pessimistically believed, that there is no cure for this "unavoidable and inherent defect," and that the death of the State can only be postponed. Certainly history provides us with no example of any immortal political State. But this does not prove the point and we should be far from willing to concede it. It was long supposed man could never fly, and that false supposition ended at Kitty Hawk, North Carolina, in 1903.

The political parties in America acquire and hold their power by two means. The first is by means of their advantage of being, at present, the sole practical way for any group of persons to gain access to the legislative and executive reins of power. The second is by means of their present absolute control of the election *process*. By the first, they gain their corporate strength; by the second they maintain it.

The Democratic Party and the Republican Party are truly remarkable institutions for the success in longevity they have demonstrated. The Democratic Party has been a major force in American politics, with but a few gaps in the years, since the time of Andrew Jackson. The Republican Party has been likewise a dominating force since the time of Abraham Lincoln. The landscape of American history is littered with the corpses of past political parties: the Federalists; the Democratic-Republicans; the National Republicans; the Antimasonic Party; the Whigs; the American Party (also known as the Know-Nothing Party); the Constitutional Union Party; the Democratic Liberal Republican Party; the Greenback Party; the Union Labor Party; the People's Party (also known as the Populists and a few other names); the Social Democratic Party; the Socialist Party; the Socialist Progressive Party, and so on, and so on. This political bone yard does provide one lesson: the political party that can no longer succeed at the polls eventually dies and is replaced by new coalitions.

It might be true that the political party can never be domesticated. This is in no way certain, but it is possible. It *can* be defanged and de-clawed, though, by two cooperating mechanisms: first, by sapping its ability to attract members; second, by wrestling control of the election process from its grip. If *both* of these can be accomplished, then and only then will it become possible to domesticate party associations. The political party is itself a corporate special interest. If its good behavior can be insured by checking its power, it can then take its place as one corporate interest among the many in the House of Interests. Perhaps it is too much to hope for, but political parties, as mini-republics, do possess one trait rarely found in any other – namely a political philosophy. It might prove to be the

case that, once the party can no longer make itself a prince, it might become instead a sage voice of reason in what is otherwise certain to be the most raucous house of Congress imaginable. It is possible that the political party, denied the ability to rule, will learn the ability to lead. It might be possible for it to cease to be a breeding ground of demagogues and become a cradle of statesmen.

But first we must accomplish the two mechanisms for insuring its good behavior. The means to the first is by providing alternative just ways by which the multitude of mini-republics can express their just corporate interests in government. The creation of the House of Interests proposed in this treatise is one way this might be accomplished within the social compact. Parties have their ideological core constituents, but the majority of their memberships have their own axes to grind, do not particularly care about the axes of others (so long as these axes are not wielded against *them*), and are likely to prefer to a more *direct* channel to power, rather than having their special interests sink into the foam of party planks and platforms. Indeed, the guiding principle for designing the mechanistic details of the House of Interests must be fixed on sapping and eliminating non-ideological incentives for membership in national political parties.

The means to the second will be more difficult to achieve because it necessarily involves having to retool the mechanisms of election. No mechanism is more essential to republican government, nor is any area of political science and philosophy likely to generate greater heat and passion in debate, nor require greater care in the crafting of mechanisms, nor to place greater demands upon the refinement of ideas. And nothing is more essential to securing the blessings of liberty. Because of this last point, I postpone discussing election reform until we treat the sixth general objective of government.

§ 6. References

The Constitution of the United States of America, 1787.

Max Farrand, *The Records of the Federal Convention of 1787*, revised ed. in four volumes, New Haven, CN: The Yale University Press, 1937.

Alexander Hamilton, James Madison, and John Jay, *The Federalist*, 1788.

Thomas Jefferson, Declaration of Independence, 1776.

John Stuart Mill, *On Liberty*, 1859.

John Stuart Mill, *Representative Government*, 1861.

Montesquieu, *The Spirit of Laws*, 1748.

Thomas Paine, *The Rights of Man*, Part Two, 1792.

Jean Jacques Rousseau, *The Social Contract*, 1762.

Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, 1776.